



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 4657 OF 2025
IN APEAL/936/2025**

HANUMAN PANDURANG KATKE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. D.M. Shinde

APP for Respondent No. 1 : Ms. A.S. Deshmukh

Advocate for Respondent No. 2 : Mr. R.M. Deshmukh

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CORAM : RAJNISH R. VYAS, J.

DATE : 22ND JANUARY, 2026

PER COURT :

1. This is an application for grant of bail and suspension of sentence. The present applicant/original accused was convicted by the Additional Sessions Judge – 2, Gangakhed, in Sessions Case No. 04/2021, for commission of offence punishable under Section 354 of the Indian Penal Code and directed to suffer imprisonment for two years and pay fine of Rs. 1,000/-. Default sentence of one month was imposed upon him.

2. The applicant was also convicted for commission of offence punishable under Section 354-A of the IPC, and Section 12 of the Protection of Children from Sexual Offences Act, 2012 and directed to

suffer imprisonment for a period of three years and pay fine of Rs. 1,000/-. Default sentence was also imposed on him.

3. He was further convicted for commission of offence punishable under Section 354-B of the IPC and Section 8 of Protection of Children from Sexual Offences Act, 2012, and directed to suffer imprisonment for a period of three years and pay fine. Default sentence was also imposed. All the sentences were ordered to run concurrently.

4. Learned counsel for the applicant submitted that he was arrested on 07.01.2021, and was released on bail on 07.10.2021. Thus, he has undergone the sentence of nine months. He further submitted that the sentence imposed upon him is of fixed term and considering the age of the present applicant, he can be ordered to undergo the same once the appeal is finally decided. According to him, after his release on bail, he did not misuse his liberty. He submits that several arguable points are involved in the appeal, since the question whether statement under Section 164 of Code of Criminal Procedure, was appreciated in proper manner or not, is also required to be looked into. He further submitted that since the offences for which he was convicted, are intention based offence, the fact whether intention was proved by the prosecution or not is also required to be tested.

5. Per contra, learned counsel Mr. Deshmukh, appearing for the

victim, opposed the prayers orally as well as by pointing out his reply filed on record. He submitted that the applicant has committed heinous crime. He disrobed victim who was only of ten years at the time of incident. He further submitted that the applicant and the victim are residing in the same locality. He invited my attention to the testimony of the victim and contended that no fruitful cross-examination was done. He thus submitted that there is absolutely no merit in the appeal.

6. Learned APP Ms. Deshmukh, also supported the stand taken by Mr. Deshmukh, and has invited my attention to the witnesses examined by the prosecution more particularly P.W. 5 and P.W. 6. She submitted that the age was properly proved and the offence on record would reveal that at the time of incident victim was minor.

7. With the assistance of learned counsel, I have gone through the record of the case and have given my thoughtful consideration to the arguments advanced. At the outset, it is necessary to mention here that the sentence imposed upon the applicant is of three years. He has already undergone the sentence of nine months. After his release on bail, he did not misuse his liberty and co-operated for early completion of trial. He has also deposited the fine amount. So far as contention of Mr. Deshmukh, that the applicant and the victim are residing in the same locality, and therefore, there is every possibility that the victim can be

threatened, suffice it to say that when the applicant was on bail, no such complaint was made. If the applicant misuses his liberty, the appropriate remedy is provided in law.

8. It is further pertinent to mention here that as rightly submitted by the learned counsel for the applicant that all the offences are intention based offences, the intention will have to be tested in the backdrop of the testimony and the victim and another witness. Considering the fact that after pronouncement of judgment by the trial Court, applicant surrendered to the custody, and thereafter, preferred an application for bail before the trial Court , which was allowed, I am of the opinion that decision on appeal will take its own time, and therefore, the present application is required to be allowed. There is one more fact. Perusal of judgment, shows that the question of appreciation of evidence in the form of 164 statement and the document showing date of birth will have to be tested independently. Thus, it can be said that the applicant has arguable case in appeal. In the aforesaid background, present application is allowed.

9. The sentence imposed by Additional Sessions Judge – 2, Gangakhed, in Sessions Case No. 04/2021 dated 01.12.2025, convicting the applicant for commission of offences punishable under Sections 354, 354-A, 354-B of the IPC, and Section 8 and 12 of Protection of Children

from Sexual Offences Act, 2012, is hereby suspended till final hearing of the appeal. Applicant shall be released on bail on same terms and conditions as were imposed by the trial Court.

10. Mr. Deshmukh, has in a able manner assisted this Court and has invited my attention to the various pieces of evidence. Due to his able assistance, the matter could be decided within a short span. In that view of the matter, his fees be quantified by the Legal Aid, Sub-Committee, High Court, Aurangabad, as per rules.

(RAJNISH R. VYAS, J.)

SPC